

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUL 27 2016

SEAN F. McAVOY, CLERK
DEPUTY
YAKIMA, WASHINGTON

1 UNITED STATES OF AMERICA

2 vs.

3 TODD POMEROY

1:15-CR-2059-SAB-1

4 AGREEMENT FOR PRE-TRIAL DIVERSION

5 It is alleged by an Indictment returned by the Grand Jury on September 9, 2015, in Cause
6 Number 1:15-CR-2059-SAB-1 that TODD POMEROY committed the following offenses against
7 the United States in the Eastern District of Washington:

8 Count 1: Beginning on a date unknown to the grand jury, but no later than October 2010, and
9 continuing through February 19, 2014, in the Eastern District of Washington, and elsewhere, TODD
10 POMEROY, FELICINAO ROMERO LUNA, and JOSE LUIS HERNANDEZ-LOPEZ, did
11 knowingly and willfully combine, conspire, confederate, and agree with each other and with other
12 persons, known and unknown to the Grand Jury, to commit offenses against the United States, that
13 is: to knowingly and willfully transport, transmit, and transfer in interstate commerce, goods and
14 merchandise of a value of \$5,000 and more, knowing the same to have been stolen and converted
15 and did aid and abet each other and other persons, in violation of Title 18, United States Code,
16 Sections 371, 2314, and 2.

18 Count 2: Beginning on a date unknown to the grand jury, but no later than October 2010, and
19 continuing through February 19, 2014, in the Eastern District of Washington, and elsewhere, TODD
20 POMEROY, FELICINAO ROMERO LUNA, and JOSE LUIS HERNANDEZ-LOPEZ, did
21 knowingly and willfully transport, transmit, and transfer in interstate commerce, good and
22 merchandise of the value of \$5,000 and more, knowing the same to have been stolen and converted,
23 all in violation of Title 18, United States Code, Sections 2314 and 2.

25 Upon accepting responsibility for your behavior and by your signature on this Agreement, it
26 appearing, after an investigation of the offenses and your background, that the interests of the United
27

1 States and your own interest and the interests of justice will be served by the following procedure,
2 therefore:

3 On the authority of the Attorney General of the United States, by Michael C. Ormsby, United
4 States Attorney for the Eastern District of Washington, prosecution in this District for this offense
5 shall be deferred for a period of 12 months from the date of the filing of this Agreement, provided
6 you abide by the following conditions and the requirements of the Pre-Trial Diversion program set
7 out below.

8 Should you violate any conditions of this supervision, the United States Attorney or his
9 designee may revoke or modify any conditions of this Pre-Trial Diversion program or change the
10 period of supervision for an additional period which shall in no case exceed 12 months from the
11 original termination date of the diversion agreement. The United States Attorney may release you
12 from supervision at any time. The United States Attorney may at any time within the period of your
13 supervision reinstate prosecution for this offense should you violate the conditions of this
14 supervision and will furnish you with notice specifying the conditions of your program which you
15 have violated. The decisions of the U.S. Attorney are made at his sole discretion and are not subject
16 to challenge.
17

18 If, upon successful completion of the program and your period of supervision, a Pre-Trial
19 Diversion report is received to the effect that you have complied with all the rules, regulations and
20 conditions above mentioned, the pending indictment will be dismissed.
21

22 CONDITIONS OF PRE-TRIAL DIVERSION

23 1. You shall not violate any law (federal, state and local). You shall immediately contact
24 your Pre-Trial Diversion supervisor if arrested and/or questioned by any law enforcement officer for
25 any reason including, but not limited to, traffic infractions. A traffic infraction, other than driving
26 under the influence, will not be deemed to be a violation of this agreement.
27
28

1 2. You shall be employed regularly at a lawful occupation or otherwise comply with the
2 terms of the special program described below. In the absence of a special program, when out of
3 work, you shall notify your diversion supervisor at once. You shall consult him/her prior to job
4 changes. In the event you are self-employed, you shall permit your diversion supervisor and/or his
5 /her designee to review all books, accounts, receipts, and/or tax records kept or maintained in
6 connection with said self-employment.

7 3. You shall continue to live in this judicial district. If you desire to move out of the district,
8 you shall obtain permission from your diversion supervisor so that the appropriate transfer of
9 program responsibility can be made prior to your relocation.
10

11 4. You shall report to your diversion supervisor as directed and keep him/her informed of
12 your whereabouts. Any failure to abide by the meeting or reporting requirements established by
13 your diversion supervisor will be deemed to be an irrevocable violation of the instant Agreement.

14 5. You shall obtain and maintain, if legally possible, a valid driver's license and the
15 appropriate vehicle insurance.
16

17 6. You agree to comply with recommended drug and alcohol treatment, as directed by your
18 diversion supervisor.

19 7. You shall not possess, control and/or consume any controlled substance, which includes
20 marijuana, or items commonly used for the consumption of such substances (drug paraphernalia), or
21 be in any place where such substances are located, controlled and/or consumed.

22 8. You shall submit to random urinalysis upon the request or at the direction of your
23 diversion supervisor.
24

25 9. You shall pay restitution to the victims. At the time you enter into this agreement,
26 pursuant to 18 U.S.C. §3663, 3663A, and 3664, you shall pay restitution in the amount of \$60,000.
27
28

1 You shall provide the restitution payment to the Clerk of Court. You understand that \$30,000 will
2 be provided to Walmart; and \$30,000 will be provided to Cabelas.

3 10. You shall perform one-hundred (100) hours of community service work at a rate of not
4 less than 8 hours per month, at a not-for-profit site approved in advance by the supervising officer.


5 11. You shall strive to achieve the desired goals of the program.
6

7 I, TODD POMEROY, assert and certify that I am aware of the fact that the Sixth
8 Amendment to the Constitution of the United States provides that in all criminal prosecutions the
9 accused shall enjoy the right to a speedy and public trial. I also am aware that Rule 48(b) of the
10 Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment,
11 information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an
12 information, or in bringing a defendant to trial. I hereby request that the United States Attorney for
13 the Eastern District of Washington defer any prosecution of me for Count 1, Conspiracy, in violation
14 of Title 18, United States Code, Sections 371; and Count 2, Interstate Transportation of Stolen
15 Product, in violation of Title 18, United States Code, Sections 2314 and 2, for a period of 12 months,
16 and to induce him to defer such prosecution I agree and consent that any delay from the date of this
17 Agreement to the date of the initiation of the prosecution, as provided for in the terms expressed
18 herein, shall be deemed to be a necessary delay at my request and I waive any defense to such
19 prosecution on the ground that such delay operated to deny my rights under Rule 48(b) of the
20 Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United
21 States to a speedy trial or to bar the prosecution by reason of the running of the statute of limitations
22 for the effective period of this Diversion Agreement.
23
24
25
26
27
28

I hereby state that the above has been read by me and explained to me by my attorney. I understand the conditions of my Pre-Trial Diversion and agree that I will comply with them.


TODD POMEROY

7-27-16
DATE


GREGORY L. SCOTT
Attorney for Todd Pomeroy

27 July 2016
DATE



THOMAS J. HANLON
Assistant United States Attorney

7/27/16
DATE


U.S. PROBATION OFFICER

7/27/16
DATE

APPROVED without passing judgment on the merits or wisdom of this diversion.


STANLEY A. BASTIAN
United States District Court Judge

7/27/2016
DATE